

# असाधारण

### EXTRAORDINARY

भाग II -- खण्ड 2

PART II - Section 2

प्राधिकार से प्रकाशित

## PUBLISHED BY AUTHORITY

सं° 26]

नई दिल्ली, मंगलवार, अगस्त 7, 2001 / श्रावण 16, 1923

No. 26]

NEW DELHI, TUESDAY, AUGUST 7, 2001 / SRAVANA 16, 1923

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

# **RAJYA SABHA**

The following Bill was introduced in the Rajya Sabha on the 7th August, 2001:—

BILL No. LIV of 2001

A Bill further to amend the Code of Criminal Procedure, 1973.

Be it enacted by Parliament in the Fifty-second Year of the Republic of India as follows:—

1. This Act may be called the Code of Criminal Procedure (Amendment) Act, 2001.

Short title.

2 of 1974.

2. In the Code of Criminal Procedure, 1973 (hereinafter referred to as the principal Act), in section 125,—

Amendment of section 125.

- (i) in sub-section (1),—
- (a) the words "not exceeding five hundred rupees in the whole," shall be omitted;
- (b) after the proviso and before the Explanation, the following provisos shall be inserted, namely:—

"Provided further that the Magistrate may, during the pendency of the proceeding regarding monthly allowance for the maintenance under this sub-section, order such person to make a monthly allowance for the interim maintenance of his wife or such child, father or mother, and the expenses of such proceeding which the Magistrate considers reasonable, and to pay the same to such person as the Magistrate may from time to time direct: Provided also that an application for the monthly allowance for the interim maintenance and expenses for proceeding under the second proviso shall, as far as possible, be disposed of within sixty days from the date of the service of notice of the application to such person.";

- L(ii) for sub-section (2), the following sub-section shall be substituted, namely:--
- "(2) Any such allowance for the maintenance or interim maintenance and expenses for proceeding shall be payable from the date of the order, or, if so ordered, from the date of the application for maintenance or interim maintenance and expenses of proceeding, as the case may be.";
- (iii) in sub-sections (3) and (4), for the word "allowance", wherever it occurs, the words "allowance for the maintenance or the interim maintenance and expenses of proceeding, as the case may be," shall be substituted.

Amendment of section 127.

- 3. In section 127 of the principal Act,—
  - (i) for sub-section (1), the following sub-section shall be substituted, namely:—
  - "(1) On proof of a change in the circumstances of any person, receiving, under section 125 a monthly allowance for the maintenance or interim maintenance, or ordered under the same section to pay a monthly allowance for the maintenance, or interim maintenance, to his wife, child, father or mother, as the case may be, the Magistrate may make such alteration, as he thinks fit, in the allowance for the maintenance or the interim maintenance, as the case may be.";
- (ii) in sub-section (3), in clause (c), for the word "maintenance", the words "maintenance or interim maintenance, as the case may be," shall be substituted;
  - (ili) in sub-section (4),-
  - (a) for the words "monthly allowance has been ordered", the words "monthly allowance for the maintenance and interim maintenance or any of them has been ordered" shall be substituted;
  - (b) for the words "as monthly allowance in pursuance of", the words "as monthly allowance for the maintenance and interim maintenance or any of them, as the case may be, in pursuance of" shall be substituted.

Amendment of section 128

- 4. In section 128 of the principal Act,-
- (i) for the word "maintenance", the words "maintenance or interim maintenance and expenses of proceeding, as the case may be," shall be substituted;
- (ii) for the words "whom the allowance", the words "whom the allowance for the maintenance or the allowance for the interim maintenance and expenses of proceeding, as the case may be," shall be substituted;
- (iii) for the words "allowance due", the words "allowance, or as the case may be, expenses, due" shall be substituted.

#### STATEMENT OF OBJECTS AND REASONS

It has been observed that an applicant, after filing application in a court under section 125 of the Code of Criminal Procedure, 1973, has to wait for several years for getting relief from the court. It is, therefore, felt that express provisions should be made in the said Code for interim maintenance allowance to the aggrieved person under said section 125 of the Code. Accordingly, it is proposed that during the pendency of the proceedings, the Magistrate may order payment of interim maintenance allowance and such expenses of the proceedings as the Magistrate consider reasonable, to the aggrieved person. It is also proposed that this order be made ordinarily within sixty days from the date of the service of the notice.

- 2. The ceiling of rupees five hundred per month for maintenance allowance was prescribed in the year 1955 in section 488 of the Code of Criminal Procedure, 1898. A ceiling of rupees five hundred was prescribed in section 125 of the Code of Criminal Procedure, 1973 on the lines of section 488 of the Code of Criminal Procedure, 1898 which has since been repealed. In view of the cost of living index constantly rising, retention of a maximum ceiling is not justified. If a ceiling is prescribed and retained, it would require periodic revision taking into account the inflation and rise in the cost of living as well as amendment of provisions of the Act from time to time. This would necessarily be time consuming. Accordingly, it is also proposed to amend section 125 and make consequential changes in section 127 of the Code of Criminal Procedure, 1973 to remove the ceiling of maintenance allowance.
  - 3. The Bill seeks to achieve the above object.

L, K, ADVANI.

R. C. TRIPATHI, Secretary General.